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09/706,097	11/03/2000	Katherine Ann Weller	58154.000002	5039

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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC  
12010 SUNSET HILLS ROAD  
SUITE 900  
RESTON, VA 20190

EXAMINER

ROSEN, NICHOLAS D

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/706,097

**Applicant(s)**

WELLER ET AL.

**Examiner**

Nicholas D. Rosen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/3/00, 11/1/01 & 7/1/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Claims 1-7 and 10-12 have been examined.

### ***Claim Objections***

Claim 12 is objected to because of the following informalities: The phrase "helping providers make, build or offer decisions," is somewhat unclear, because providers presumably make, build, or offer products; they may well also make decisions, but it is odd, in context, to speak of building or offering decisions. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 4, 5, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article "Perfect Launches Advanced B2B Sourcing Solution – PerfectMarket," hereinafter "Perfect Launches," in view of "Tools for Making Acute Risk Decision with Chemical Process Safety Applications," hereinafter "Tools," and Brodsky et al. (U.S. Patent 6,751,597). As per claim 1, "Perfect Launches" discloses a computer-implemented decision analysis system that facilitates commerce-related decision making by integrating a values-based supply component for sellers using value optimization algorithms that enable the system to identify beneficial commercial transactions for participating parties, the system comprising: means for creating a demand component comprising at least one demand-oriented, values-based decision analysis component, the demand component being based on: (i) a set of demand values associated with a buyer and a quantifiable metric associated with each demand value; and (iv) a set of buyer alternatives that represent at least one of products and services the buyer is capable of purchasing (entire article, especially the paragraph beginning "Architected by renowned"). "Perfect Launches" does not expressly disclose (ii) a set of demand value tradeoffs showing how the buyer would trade one demand value for another demand value and showing how demand values mathematically relate to one common financial metric, but does disclose automating the complex negotiation between buyers and suppliers on multiple weighted dimensions to produce a single ranked list of offers that best meet the buyer's needs, implying that the prices and

various non-price attributes of the seller offers have been reduced to one common metric by which they can be compared in accordance with the buyer's weighted preferences. "Perfect Launches" does not disclose (iii) a set of demand information components, each defined in terms of a probability distribution, it is well known to define components of expected utility in terms of probability, as taught, for example, by "Tools" (pages 304-307). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the demand components be based on a set of demand information components, each defined in terms of a probability distribution, for the obvious advantage of taking into account the probabilistic nature of much of human knowledge.

"Perfect Launches" does not disclose means for creating a supply component corresponding to the demand component, but Brodsky teaches matchmaking optimization system for matching buyers and sellers together, recommending a set of buyers to a manufacturer as well as suppliers to a buyer (column 5, lines 23-60), making such a supply component obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the stated advantage of matching buyers to suppliers as well as vice versa. Likewise, Brodsky's disclosure of matchmaking between buyers and sellers (Abstract; column 5, lines 23-60) makes obvious means for combining the demand values, the supply values, the various tradeoffs, etc., for the same stated advantage.

"Perfect Launches" does not disclose means for performing sensitivity analysis to show how the risk and return characteristics of the buyer alternatives and the seller

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alternatives change as the demand values, the supply values, etc. change, but such sensitivity analysis is well known, as taught by "Tools," (pages 315-320). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include means for performing sensitivity analysis, for the stated advantage of determining which variables tend to have greatest impact on the final results, simplifying the analysis, and reducing the number of alternatives, and providing insights that guide subsequent work.

As per claim 4, "Perfect Launches" discloses assisting a customer in choosing a product among a plurality of products (whole article), as does Brodsky (more explicitly disclosing choosing a product as well as choosing a supplier, and consequently a product made by that supplier; column 7, line 63, through column 8, line 6).

As per claim 5, and also claim 7, and (with a further reference) claim 11, "Perfect Launches" does not expressly disclose an object-oriented analytical model, but does disclose mathematical and logical analysis, and thus an analytical model, while Brodsky teaches object-oriented processes (column 6, lines 42-51). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use an object-oriented model, for the obvious advantage of accomplishing a computer-implemented process by standard programming techniques and languages.

As per claim 6, "Perfect Launches" does not expressly disclose a sell component for assisting a user in determining how to offer already built products to customers (although the products for which sellers make custom offers could surely be already

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built products), but Brodsky, in addition to teaching a supply component for sellers, teaches that a seller may offer the products in its catalog, which are normally already built products (column 4, lines 57-66). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a sell component for assisting a user in determining how to offer already built products to customers, for the stated advantage of helping users profit from selling items that they have for sale.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Perfect Launches," "Tools," and Brodsky as applied to claim 1 above, and further in view of official notice. As per claim 2, "Perfect Launches" does not expressly disclose an object-oriented analytical model, but does disclose mathematical and logical analysis, and thus an analytical model, while Brodsky teaches object-oriented processes (column 6, lines 42-51). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to use an object-oriented model, for the obvious advantage of accomplishing a computer-implemented process by standard programming techniques and languages.

"Perfect Launches" does not disclose that the analytical model shows graphically and mathematically how the demand values, the supply values, the buyer information components, and the seller information components are related to calculate the demand value tradeoffs, the supply value tradeoffs, risk and return, but official notice is taken that it is well known for computer programs and packages to show information graphically and mathematically. Hence, it would have been obvious to one of ordinary

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skill in the art of electronic commerce at the time of applicant's invention to have the analytical model show graphically and mathematically how the demand values, the supply values, etc., are related to calculate the demand value tradeoffs, the supply value tradeoffs, risk and return, for the obvious advantage of making relevant information readily available and comprehensible to users.

As per claim 3, "Perfect Launches" does disclose collecting user information while assisting users in a commercial decision making process (first and second paragraphs). Given the existence and availability of data, one can take the view that each object-oriented analytical model is able to share the user information with other object-oriented analytical models, whether or not it actually does so, and the particulars of what the user information collected includes are merely non-functional descriptive material, since the claim does not recite specifically what is done with the information that gives weight to the specified particulars. Even if claim 3 is to be read more narrowly, official notice is taken that it is well known to use data gathered in the course of users' shopping, web-surfing, etc., to direct future advertisements, offers, etc. to the users, and/or to analyze the demand for products, the effectiveness of promotions, etc. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to share the user information with other analytical models, for the obvious advantage of determining how best to direct future advertisements, offers, etc. to the users, and/or to analyze the demand for products, the effectiveness of promotions, etc.



Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Perfect Launches," "Tools," and Brodsky as applied to claim 1 above, and further in view of Eynon et al. (U.S. Patent 6,714,937). As per claim 10, "Perfect Launches" does not expressly disclose that the analysis component comprises a build component for assisting a user in determining products to build, but it is well known to assist users in determine products to build, e.g., by providing customized orders, as taught, for example, by Eynon (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a build component, for the stated advantage of configuring products in accordance with the purchasers' desires. (For claim 11, see rejection of claim 5, above.)

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over "Perfect Launches," "Tools," and Brodsky as applied to claim 1 above, and further in view of official notice. "Perfect Launches" does not disclose that feedback loops are created so that demand information gathered by the demand component in the process of helping customers make purchase decisions is utilized by the supply component, but discloses gathering demand information in the process of helping customers make purchase decisions, and utilizing this information to provide supplier information. Official notice is taken that it is well known to create feedback loops (e.g., asking further questions based on a user's answer to earlier questions, or providing further information, questions, etc., based on products which a user has requested or purchased). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of

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applicant's invention to create feedback loops for the purpose, for the obvious advantage of effectively gathering relevant information.

"Perfect Launches" does not expressly disclose utilizing supply information gathered by the supply component in the process of helping providers make, build, or offer products or decisions products, but Brodsky teaches that supply information gathered by a supply component in the process of helping providers make, build, or offer products (and decisions) is utilized in matching suppliers and purchasers, and therefore utilized by a demand component (Abstract; column 4, line 44, through column 5, line 60). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to thus utilize supply information, for the stated purpose of recommending mutually agreeable transactions.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Healy et al. (U.S. Patent 6,298,328) disclose an apparatus, method, and system for sizing markets. Rappaport et al. (U.S. Patent 6,493,679) disclose a method and system for managing a real-time bill of materials.

Plate et al. (U.S. Patent Application Publication 2001/0047322) disclose a method and system for matching bids. Macready et al. (U.S. Patent Application Publication 2002/0016759) disclose a method and system for discovery of trades between parties. Lidow (U.S. Patent Application Publication 2002/0019761) discloses supply chain architecture. Grant (U.S. Patent Application Publication 2003/0036943) discloses a constituency value exchange optimization method. Baca et al. (U.S. Patent Application Publication 2004/0015382) disclose a data-driven management decision tool for total resource management. Eder (U.S. Patent Application Publication 2004/0088239) discloses an automated method of and system for identifying, measuring and enhancing categories of value for a value chain.

Makarios et al. (WO 00/51051) disclose an integrated electronic cross-vendor smart-buying clearinghouse.

Green ("Synchronized Logistics: the 1990's Vision of Leading Personal Care Manufacturers") discloses a supply chain network. The anonymous article, "Controlling the Cost of the Supply Chain with KAPES," discloses determining base costs, etc., from a database. Olinger ("A Special Breed") discloses letting a customer and a manufacturer review requirements, enter or alter a work order, etc. The anonymous article "Mapics Delivers Wisdom to Midsized Manufacturers," discloses enabling executives to analyze alternative resource plans. The anonymous article, "Perfect and Open Ratings Form Alliance to Provide Critical Supplier Performance Ratings to Private Exchanges and Net Markets," discloses an environment for buyers and sellers to conduct transactions. The anonymous article, "semiconbay.com Launches New Open

Marketplace for the Semiconductor Industry,” discloses an integration module to give buyers and sellers a secure and private marketplace.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306, which **will be changed** to 571-273-8300 as of July 15, 2005. Non-official/draft communications can be faxed to the examiner at 571-273-6762. Please note that

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official amendments, arguments, and other responses must be faxed to the official fax number for the organization, if they are sent by fax.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nicholas D. Rosen*

**NICHOLAS D. ROSEN  
PRIMARY EXAMINER**

July 13, 2005